

Senate File 554 - Reprinted

SENATE FILE 554

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 284)

(As Amended and Passed by the Senate April 24, 2023)

A BILL FOR

1 An Act relating to pharmacy benefits manager reverse auctions
2 and group insurance, and annual reporting by pharmacy
3 benefits managers.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 8A.319 Pharmacy benefits manager
2 reverse auctions.

3 1. This section may be cited as *"The Iowa Competitive*
4 *Pharmacy Benefits Managers Marketplace Act"*.

5 2. As used in this section, unless the context otherwise
6 requires:

7 a. *"Market check"* means a technology-driven evaluation of an
8 incumbent pharmacy benefits manager's prescription drug pricing
9 based on benchmark comparators derived from pharmacy benefits
10 manager reverse auction processes conducted in the United
11 States over the immediately preceding twelve months.

12 b. *"Participant bidding agreement"* means an online
13 agreement that details common definitions, prescription drug
14 classifications, rules, data access and use rights, and other
15 optimal contract terms that benefit the state and that all
16 bidders must accept as a prerequisite for participation in a
17 pharmacy benefits manager reverse auction.

18 c. *"Pharmacy benefits manager"* means the same as defined in
19 section 510B.1.

20 d. *"Pharmacy benefits manager reverse auction"* means an
21 automated, transparent, and competitive bidding process
22 conducted online that starts with an opening round of bids
23 and allows qualified pharmacy benefits manager bidders to
24 counteroffer a lower price for as many rounds of bidding
25 as determined by the department for a multiple health plan
26 prescription drug purchasing group.

27 e. *"Price"* means the projected cost of a pharmacy benefits
28 manager's bid to provide prescription drug benefits to allow
29 direct comparison of the comparably calculated costs of
30 competing pharmacy benefits managers' proposals over the
31 duration of the pharmacy benefits manager's services contract.

32 f. *"Real-time"* means within no more than one hour.

33 g. *"Self-funded private sector health plan"* means any
34 self-funded private sector employer or multi-employer health
35 plan.

1 *h. "Self-funded public sector health plan"* means any group
2 benefit plan under chapter 509A.

3 3. Consistent with section 8A.311, and notwithstanding any
4 other law to the contrary, the department shall enter into a
5 contract for the services of a pharmacy benefits manager for
6 the administration of benefits of self-funded public sector
7 health plans in compliance with this section.

8 4. Prior to November 1, 2023, the department shall
9 procure, through solicitation of proposals from qualified
10 professional services vendors, all of the following based on
11 price, capabilities, and other factors deemed relevant by the
12 department:

13 *a.* A technology platform with the capabilities to conduct
14 a pharmacy benefits manager reverse auction. The department
15 shall ensure that the technology platform possesses, at a
16 minimum, the capacity to do all of the following:

17 (1) Conduct an automated, online, reverse auction of
18 pharmacy benefits manager services using a software application
19 and high-performance data infrastructure to intake, cleanse,
20 and normalize pharmacy benefits manager data with development
21 methods and information security standards that have been
22 validated by receiving service organization control 2 and
23 national institute of standards and technology certification,
24 or successor information technology security certifications, as
25 identified by the office of the chief information officer.

26 (2) Automate repricing of diverse and complex pharmacy
27 benefits managers' prescription drug pricing proposals to allow
28 direct comparison by the state of the comparably calculated
29 costs of pharmacy benefits managers' bids using one hundred
30 percent of annual prescription drug claims data available
31 for state-funded health plans, or a multiple health plan
32 prescription drug purchasing group, and using code-based
33 classification of drugs from nationally accepted drug sources.

34 (3) Simultaneously evaluate in real-time diverse and
35 complex multiple proposals from full-service pharmacy benefits

1 managers, including average wholesale price, guaranteed
2 net cost, and national average drug acquisition cost
3 pricing models, as well as proposals from pharmacy benefits
4 administrators and specialty drug and rebate carve-out service
5 providers.

6 (4) Produce an automated report and analysis of pharmacy
7 benefits managers' bids, including ranking of pharmacy benefits
8 managers' bids based on comparative costs and qualitative
9 aspects of the bids in real-time following the close of each
10 round of reverse auction bidding.

11 (5) Perform real-time, electronic, line-by-line,
12 claim-by-claim review of one hundred percent of invoiced
13 pharmacy benefits managers' prescription drug claims, and
14 identify all deviations from the specific terms of the pharmacy
15 benefits manager's services contract that resulted from the
16 reserve auction process.

17 b. Related services from the operator of the technology
18 platform identified in paragraph "a", which at a minimum shall
19 include all of the following:

20 (1) Evaluation of the qualifications of pharmacy benefits
21 manager bidders.

22 (2) Pharmacy benefits manager reverse auction services to
23 support the department in comparing pricing for the pharmacy
24 benefits manager procurement.

25 (3) Related professional services.

26 5. The department shall not award a contract for the
27 technology platform and technology operator services to a
28 vendor that is a pharmacy benefits manager or to a vendor that
29 is managed by, or a subsidiary or affiliate of, a pharmacy
30 benefits manager.

31 6. The vendor awarded the contract by the department shall
32 not outsource any part of the pharmacy benefits manager reverse
33 auction or any part of the automated, real-time, electronic,
34 line-by-line, claim-by-claim review of invoiced pharmacy
35 benefits manager prescription drug claims.

1 7. With technical assistance and support provided by the
2 technology platform operator, the department shall specify the
3 terms of the participant bidding agreement. The terms of the
4 participant bidding agreement shall not be modified except by
5 specific consent of the department.

6 8. *a.* The technology platform used to conduct the reverse
7 auction shall be repurposed over the duration of the pharmacy
8 benefits manager's services contract as an automated pharmacy
9 claims adjudication engine to perform real-time, electronic,
10 line-by-line, claim-by-claim review of one hundred percent of
11 invoiced pharmacy benefits manager's prescription drug claims,
12 and to identify all deviations from the specific terms of the
13 pharmacy benefits manager's services contract.

14 *b.* The department shall reconcile the electronically
15 adjudicated pharmacy claims, as described in paragraph "a",
16 with pharmacy benefits manager's invoices on a monthly or
17 quarterly basis to ensure that state payments shall not exceed
18 the terms specified in any pharmacy benefits manager's services
19 contract.

20 *c.* If following state payment to the pharmacy benefits
21 manager on the basis of the reconciliation under paragraph
22 "b" the pharmacy benefits manager asserts that the department
23 paid less than the amount owed, the pharmacy benefits manager
24 may seek resolution through a mutually acceptable dispute
25 resolution process that the parties agreed to in the terms of
26 the services contract under subsection 9, paragraph "a".

27 9. *a.* The first pharmacy benefits manager reverse auction
28 shall be completed and the services contract shall be awarded
29 to the winning pharmacy benefits manager with an effective date
30 beginning July 1, 2024. Subsequent contracts must be awarded
31 no later than three months prior to termination or expiration
32 of the current pharmacy benefits manager's services contract
33 for a covered group, such as the state employees benefits
34 group, that includes only active employees and dependents, but
35 does not include retiree participants in a Medicare part D

1 employer group waiver program pursuant to the federal Medicare
2 Prescription Drug, Improvement, and Modernization Act of 2003,
3 Pub. L. No. 108-173.

4 *b.* In the event an eligible covered group that includes
5 retiree participants in a Medicare part D employer group
6 waiver program pursuant to the federal Medicare Prescription
7 Drug, Improvement, and Modernization Act of 2003, Pub. L. No.
8 108-173, opts to use the processes and procedures under this
9 section, the relevant pharmacy benefits manager reverse auction
10 shall be completed and the pharmacy benefits manager services
11 contract shall be awarded to the winning pharmacy benefits
12 manager no later than six months prior to termination or
13 expiration of the pharmacy benefits manager's services contract
14 currently covering the retiree employer group waiver program
15 participants.

16 10. The department may perform a market check for providing
17 pharmacy benefits manager services during the term of the
18 current pharmacy benefits manager's services contract in order
19 to ensure continuing competitiveness of incumbent prescription
20 drug pricing during the term of a pharmacy benefits manager's
21 services contract.

22 11. To ensure that the department does not incur additional
23 expenditures associated with the pharmacy benefits manager
24 reverse auction, ongoing electronic review and validation
25 of pharmacy benefits managers' claims, and periodic market
26 checks, the department shall implement a no-pay option that
27 obligates the winning pharmacy benefits manager, rather than
28 the state, to pay the cost of the technology platform and
29 related technology platform operator services by assessing the
30 pharmacy benefits manager a per-prescription fee in an amount
31 agreed to by the department and the technology operator, and
32 requiring the pharmacy benefits manager to pay the fees to the
33 technology operator over the duration of the pharmacy benefits
34 manager's services contract. The obligation of the winning
35 pharmacy benefits manager to pay the per-prescription fee shall

1 be incorporated as a term of the participant bidding agreement
2 and the pharmacy benefits manager's services contract awarded
3 to the pharmacy benefits manager reverse auction winner.

4 12. a. This section shall apply to group benefit plans
5 under chapter 509A. This section shall not apply to nonprofit,
6 nongovernmental health maintenance organizations with respect
7 to managed care plans that provide a majority of covered health
8 care services through a single contracted medical group.

9 b. (1) Three years after the first service contract is
10 awarded to a pharmacy benefits manager pursuant to subsection
11 9, paragraph "a", any self-funded private sector health plan
12 with substantial participation by Iowa employees and the
13 employees' dependents shall have the option to conduct a
14 pharmacy benefits manager reverse auction for the specific
15 self-funded private sector health plan utilizing the technology
16 platform and technology operator services selected by the
17 department under this section. The department may charge the
18 self-funded private sector health plan a fee, as established
19 by the department by rule, sufficient to cover any incremental
20 cost associated with the pharmacy benefits manager reverse
21 auction.

22 (2) A pharmacy benefits manager selected by a self-funded
23 private sector health plan as a result of a pharmacy benefits
24 manager reverse auction conducted pursuant to subparagraph
25 (1) shall be assessed a per-prescription fee, pursuant to
26 subsection 11, in an amount determined by the department by
27 rule.

28 c. Any self-funded public sector health plans or self-funded
29 private sector health plans that opt to conduct a pharmacy
30 benefits manager reverse auction shall retain full autonomy
31 over determination of the individual health plan's respective
32 prescription drug formularies and pharmacy benefit designs,
33 and shall not be required to adopt a common prescription drug
34 formulary or common prescription pharmacy benefit design.

35 d. Any pharmacy benefits manager providing services to the

1 department, to a self-funded public sector health plan, or
2 to a self-funded private sector health plan as described in
3 this section shall provide the department, each participating
4 self-funded public sector health plan, and each participating
5 self-funded private sector health plan access to complete
6 pharmacy claims data necessary to conduct the pharmacy
7 benefits manager reverse auction and to carry out applicable
8 administrative and management duties.

9 13. Notwithstanding subsection 3, the department may elect
10 to vacate the outcome of a pharmacy benefits manager reverse
11 auction if the lowest-cost pharmacy benefits manager's bid
12 is not less than the projected cost trend for the incumbent
13 pharmacy benefits manager's services contract as verified by
14 the department. The department may utilize a consultant to
15 conduct the verification. The cost trend shall be projected
16 by the technology platform operator using industry-recognized
17 data sources and shall be subject to review and approval by
18 the department in advance of the pharmacy benefits manager
19 reverse auction. Methodology shall be applied consistently in
20 projection of cost and savings to the state with regard to the
21 incumbent pharmacy benefits manager's services contract and
22 competing pharmacy benefits manager reverse auction bids.

23 Sec. 2. Section 510C.2, subsection 2, paragraph a,
24 unnumbered paragraph 1, Code 2023, is amended to read as
25 follows:

26 A pharmacy benefits manager shall provide the information
27 pursuant to [subsection 1](#) to the commissioner in a format
28 approved by the commissioner that does not ~~directly or~~
29 ~~indirectly~~ publicly disclose any of the following: